



CERTIFICATE OF MAILING  
UNDER 37 CFR 1.8(a)

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Washington DC 20231 on  
26 MARCH 2002  
HUESCHEN AND SAGE

Dated:

*G. Patrick Sage*

SERVIER 359

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*5/Election*

Applicant : Solo GOLDSTEIN, Claude GUILLOUNNEAU, Yves CHARTON,  
Brian LOCKHART, and Pierre LESTAGE

Serial No. : 09/888,990

Filed : 26 JUN 2001

Title : 1,1- and 2,2-Disubstituted Cyclopropane Compounds

Art Unit : 1614

Examiner : Binta M. ROBINSON, Esq.

*Bet*  
4-11-02

\* \* \* \* \*

Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

RESPONSE AND ELECTION UNDER 37 CFR §§ 1.111 AND 1.115.

Sir:

Responsive to the Office Action, a Restriction Requirement, dated March 12, 2002, the applicants elect the species of Example 19 as the reference point for the Examiner to create a natural genus based on a liberal interpretation of the doctrine of legal and chemical equivalence. Swift and favorable consideration of the instant application is respectfully solicited.

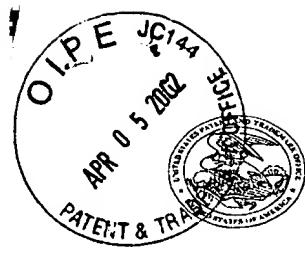
Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

By: *G. Patrick Sage*  
G. PATRICK SAGE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,990	06/26/2001	Solo Goldstein	ADIR359/lw	
25666	7590	03/12/2002		
THE FIRM OF HUESCHEN AND SAGE 500 COLUMBIA PLAZA 350 EAST MICHIGAN AVENUE KALAMAZOO, MI 49007			EXAMINER	ROBINSON, BINTA M

ART UNIT	PAPER NUMBER
1625	

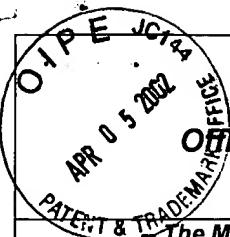
DATE MAILED: 03/12/2002

DOCKETED  
*Response Due  
April 12, 2002*

Please find below and/or attached an Office communication concerning this application or proceeding.

R E C E I V E D  
MAR 18 2002

The Firm of  
HUESCHEN AND SAGE



## Office Action Summary

Application No.	Applicant(s)	
09/888,990	GOLDSTEIN ET AL.	
Examiner	Art Unit	
Binta M. Robinson	1625	

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 19-30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 19-30 are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

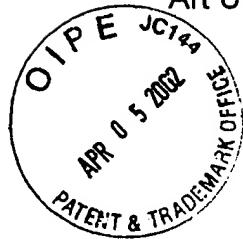
### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____                                    |

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Application/Control Number: 09/888,990  
Art Unit: 1625



Page 2  
APR 08 2002  
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## DETAILED ACTION

### ***Election/Restrictions***

Claims 19-30 are generic to a plurality of disclosed patentably distinct species comprising R1, R2, X, Y, n, p, and A. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The election of species will be used as a reference point for the examiner to create a natural genus based on a liberal interpretation of the doctrine of legal and chemical equivalence and restriction will be required under 35 U. S. C. 121.

A telephone call was made to Attorney Sage on 9/26/01 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binta M. Robinson whose telephone number is (703) 306-5437. The examiner can normally be reached on M-F (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Rotman can be reached on (703)308-4698. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7922 for regular communications and (703)308-7922 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0193.

Binta Robinson



March 11, 2002



**ALAN L. ROTMAN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**